

California Gambling Control Commission
2339 Gateway Oaks Drive, Suite 100
Sacramento CA 95833

Initial Statement of Reasons
CGCC-GCA-2006-R-3

Program for Responsible Gambling

“Americans now spend more on legal gambling than they spend on movie tickets, recorded music, theme parks, spectator sports and video games, combined, on an annual basis.”¹

Gambling opportunities in the State of California have increased over the years and, with that increased opportunity, the potential for gambling addiction.

Pathological gambling became a disease code in 1980, under the more general heading of impulse-control disorder, within the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (Third), more commonly known as DSM-III. While an estimated 1% to 2% of the general population may be considered pathological gamblers, 3% to 4% of the general population may be considered problem or compulsive gamblers (about two million people in the state of California). With accessibility to gambling venues, the rates increase. Higher rates of 4.6% for problem gamblers and 5.4% for pathological gamblers have been observed in gambling venue patrons.^{2,3} These numbers increase when looking at problem gambling in the youth population.

Adolescents consistently show elevated rates of problem gambling compared to adults in the general population. [One study estimates that] between 4% and 8% of adolescents report very serious gambling problems and another 10% to 15% of adolescents are at risk for developing serious gambling problems. Other estimates of the prevalence of adolescent problem or pathological gambling rates range between 1% and 9%, with a median of 6%....⁴

¹ (Quoting Christiansen & Sinclair, 2001.) Volberg et al. Situational Assessment of Problem Gambling Services in California. March 2005. page 6. Available at the Office of Problem Gambling website: <http://www.adp.ca.gov/OPG>, or in Attachment A to this Initial Statement of Reasons.

² California Council on Problem Gaming. Responsible Gambling Workshop, p.9. Available in Attachment B to this Initial Statement of Reasons.

³ Potenza, M.; Kosten, T.; Rounsaville, B.. Pathological Gambling. *JAMA*, July 11, 2001 – Vol 286, No. 2. Available in Attachment C to this Initial Statement of Reasons.

⁴ (Quoting first Derevensky and Gupta (2000), then National Research Council, 1999; Shaffer, Hall & Vander Bilt, 1999.) Volberg et al. Situational Assessment of Problem Gambling Services in California. March 2005. page 20.

The California legislature recognized that gambling “can become addictive”⁵ and stated that it “is the policy of the State of California to require that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of this state.”⁶ The California Gambling Control Commission (CGCC) has been authorized to “restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling”⁷ in order to effectuate the state’s policy.

The Commission has worked on the concept of problem gambling for some time now, and has gotten input from the California Council on Problem Gambling, the Gambling Policy Advisory Committee (GPAC), other agencies (such as the Department of Justice’s Division of Gambling Control, the Horse Racing Board, and the Lottery Commission), and affected industry representatives. The Commission feels that this draft represents a beginning for a program that could be refined and expanded in the future, as funds and staff become available, and as experience is gained from the cardrooms’ use of self-exclusion and self-restriction lists.

The particulars of this proposed regulation package are addressed below.

Section 12460 contains definitions for purposes of clarity.

Section 12461 and 12462 would direct gambling establishments to post information about problem gambling and to train their employees about the nature and symptoms of problem gambling and assisting patrons in obtaining information about problem gambling programs. If a gambling establishment operates a web site, the web site must contain links to problem gambling sites. In addition, any advertising would need to include a responsible gambling message with the phone number (1-800-GAMBLER) and/or the web address www.problemgambling.ca.gov.

The Office of Problem Gambling (www.problemgambling.ca.gov), within the Department of Alcohol and Drug Programs, is mandated to develop a problem gambling prevention program, which includes a toll-free telephone service for immediate crisis management and referral to health providers who can provide treatment for gambling related problems and to self-help groups. This helpline is currently operated by the California Council on Problem Gambling, with the telephone number of 1-800-GAMBLER.

Training for the gaming industry is available through the California Council on Problem Gambling (see their web site at <http://www.calproblemgambling.org/> for further information).

Available at the Office of Problem Gambling website: <http://www.adp.ca.gov/OPG>, or in Attachment A to this Initial Statement of Reasons.

⁵ Business and Professions Code section 19801, subdivision (b).

⁶ Business and Professions Code section 19920.

⁷ Business and Professions Code section 19841, subdivision (o).

By mandating training for employees regarding referral information, the employee may be better able to direct a problem gambler (or friends or family of a problem gambler) who asks for help to literature, web sites, or telephone help lines that can provide assistance or information regarding the nature and symptoms of problem gambling.

Further, training regarding problem gambling may help the employees themselves.

“[T]he prevalence of pathological gambling behavior may be higher among gambling industry employees than in the general population and Dr. Robert Hunter, a specialist in pathological gambling treatment, has estimated that 15 percent of gambling industry employees have a gambling problem.”⁸

Section 12463 creates a “self-restriction” program wherein patrons can exclude themselves from a particular gambling establishment, block themselves in advance from the opportunity to cash checks or obtain credit from a gambling establishment (which allows patrons to gamble within their pre-defined cash limits), or to “opt-out” of receiving direct-mail marketing brochures which may entice them into gambling establishments.

Section 12463 creates a “self-exclusion” program wherein patrons can exclude themselves from all California cardrooms – a gambling establishment would not allow this person into the establishment or, if the person sneaks in, would escort the person out on discovering the person’s identity as an excluded person. A number of studies have concluded that self-exclusion programs may be an effective tool to help individuals control their gambling. Self-exclusion may be helpful to gamblers who might need assistance, but are not yet ready to seek professional help, and can be an effective gateway to formal treatment or self-help for problem gamblers.⁹

Time periods for exclusion are set for either one year, five years, or lifetime. The terms are irrevocable – if a person has a gambling problem, they may not be in a condition to competently request that the ban be lifted, and the Commission does not have the expertise to determine if lifting the ban would be in the best interest of the excluded person. In a review of other states¹⁰, where seven states provide for self-exclusion:

1. In Illinois, exclusion is permanent, but after five years from the time placed on the list, a person may petition the Illinois Gaming Board for removal.
2. In Indiana, a person may select one year, five years, or lifetime exclusion. A person may request to be removed from the exclusion list after their one- or five-year period of exclusion has elapsed.

⁸ Arnie Wexler, testimony before the National Gambling Impact Study Commission, Atlantic City, New Jersey, January 20, 1998, and Rex Butain, “There’s a Problem in the House,” *International Gambling & Wagering Business*, July 1996, p. 40. Quoted in the National Gambling Impact Study Commission Report, 1999, page 4-11, available at <http://govinfo.library.unt.edu/ngisc/reports/fullrpt.html> and in Attachment D to this Initial Statement of Reasons.

⁹ Volberg et al. Situational Assessment of Problem Gambling Services in California. March 2005. pages 32-33. Available at the Office of Problem Gambling website: <http://www.adp.ca.gov/OPG>, or in Attachment A to this Initial Statement of Reasons.

¹⁰ As of December 2003, American Gaming Association, *Responsible Gaming Statutes and Regulations*, Second Edition.

3. In Louisiana, no person placed on the self-exclusion list may request removal for a period of five years from the date the person is placed on the self-exclusion list.
4. In Michigan, placement on the Dissociated Persons List lasts for life.
5. In Mississippi, self-exclusion is effective for a minimum period of two years, after which time the person may submit a written request to be removed from the list.
6. In Missouri, placement on the Dissociated Persons List lasts for life.
7. In New Jersey, a person may select one year, three years, or life.

The National Council on Problem Gambling has a discussion paper on current voluntary exclusion practices, which discusses whether self-exclusion must be lifetime:

The consensus opinion is that a lifetime exclusion should be an option but not mandatory. The committee believes that mandatory lifetime exclusion discourages some gamblers from self-excluding. Furthermore, mandatory lifetime self-exclusion does not complement the treatment process where it is common for gamblers to gradually go through a process of recovery. Thus, the committee finds that a menu of options for the length of self-exclusion is preferable and better complements the treatment process.¹¹

After careful consideration, the Commission has provided three irrevocable term options.

While some jurisdictions allow for friends or family members to be able to complete an exclusion form for a problem gambler, this does not appear to the Commission to be the best course of action. As reported by National Council on Problem Gambling,

While some committee members suggested that family members be able to initiate the ban, a majority opposed this concept. There appear to be significant legal issues with such a concept and it runs counter to many widely accepted recovery values, including self-recognition and personal responsibility.¹²

Section 12466 includes the enforcement of this section. It allows the Commission or Division staff to review a gambling establishment's policies and procedures and determine if the gambling establishment's program is adequate under this section. A penalty provision is included for violation of this section. Also included in this section is the proviso that there is no private cause of action under this Article.

¹¹ National Council on Problem Gambling. Discussion Paper On Current Voluntary Exclusion Practices, October 2003, available at http://www.ncpgambling.org/about_problem/self_exclusion_report.asp, or as Attachment E to this Initial Statement of Reasons.

¹² National Council on Problem Gambling. Discussion Paper On Current Voluntary Exclusion Practices, October 2003, available at http://www.ncpgambling.org/about_problem/self_exclusion_report.asp, or as Attachment E to this Initial Statement of Reasons.

It is unreasonable to expect managers of gambling companies to jeopardize their shareholders' money by exposing their companies to potentially very expensive litigation....It is also unreasonable to expect regulatory authorities to expose themselves to class actions by problem gamblers....It follows from this that any effective self-exclusion programme must guarantee immunity from prosecution to companies who take all reasonable steps to enforce it, even though everyone knows that they cannot be 100% successful....

Self-exclusion from all commercial gambling premises should be available as an option to individual gamblers who believe that this might help them in overcoming their problems with excessive gambling. This should never be taken to imply that responsibility for excessive gambling has been transferred away from the gamblers themselves and on to the regulators, gambling companies or treatment professionals.¹³

The forms for the self-exclusion and self-restriction programs echo that the responsibility for following either the self-exclusion or self-restriction is on the patron.

¹³ Peter Collins and Joseph Kelly, *Problem Gambling and Self-Exclusion: A Report to the South African Responsible Gambling Trust*. Gaming Law Review, Volume 6, Number 6, page 517, 519, 530 (December 2002), and in Attachment F to this Initial Statement of Reasons.